

DOCKET NO. DEP754NP

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: DANIEL D. AUGER

Serial No.: 10/609,171 Art Unit:

Filed : 06/27/2003 Examiner:

For : KIT, GUIDE & METHOD FOR LOCATING DISTAL FEMUR RESECTION PLANE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

PETITION UNDER 37 CFR 1.47

Applicant(s) hereby petition under 37 CFR 1.47 to make this application on behalf of themselves and Frederic Turquier, who has not signed the Declaration and Power of Attorney and has not signed the Assignment. Fellow inventor Daniel Auger has signed on behalf of Mr. Turquier.

As set forth in the accompanying Statement of Simon Wilson, Mr. Turquier refused to sign a declaration and power of attorney and assignment of the application in June, 2003.

Mr. Wilson sent a copy of the above United States patent application and an Assignment and a Declaration and Power of Attorney to Mr. Turquier at his last known address in October, 2003. A copy of Mr. Wilson's letter is attached to his Statement. Mr. Turquier has not responded to this letter.

Mr. Turquier is not employed by the assignee of the present application and is no longer employed by any affiliate of the assignee of the present application.



When Mr. Turquier's last known employer, Smith & Nephew, was most recently contacted by Simon Wilson (see Statement), Mr. Wilson was informed that Mr. Turquier was no longer was employed at Smith & Nephew.

The last known address of Mr. Turquier is: 10 Crossways, Badger Hill, York, England Y010 5JQ.

Mr. Turquier is understood to be a French citizen.

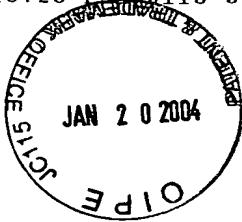
The filing dates of the above-identified U.S. Provisional Patent Application and U.S. Patent Application are necessary to preserve the rights of DePuy Products, Inc. in this patent application.

Please charge Deposit Account No. 10-0750/DEP754NP/SJM in the name of Johnson & Johnson for the cost of filing this Petition. Three copies of this Petition are enclosed.

Respectfully submitted,

Stephen J. Manich
Reg. No. 30,657
Attorney for Applicant(s)

Johnson & Johnson
One Johnson & Johnson Plaza
New Brunswick, NJ 08933-7003
(574) 372-7796
DATE: January 16, 2004



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Auger, et al.

For: KIT, GUIDE AND METHOD FOR LOCATING DISTAL FEMORAL RESECTION PLANE

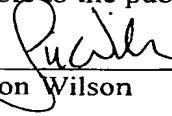
the specification of which was filed on June 27, 2003 as Application Ser. No. 10/609,171, and which claims priority to U.S. Provisional Application Ser. No. 60/392,717 filed June 28, 2002.

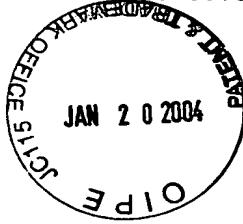
STATEMENT OF SIMON WILSON

1. I am presently employed as an Information Scientist at DePuy International, Inc. in Leeds, England.
2. It is my understanding that DePuy Orthopaedics, Inc., DePuy International, Inc. and DePuy Products, Inc. are all wholly-owned subsidiaries of DePuy, Inc. I understand that the other inventors associated with this patent application have assigned their rights in this application to DePuy Products, Inc.
3. I understand that Frederic Turquier was formerly an employee of DePuy International, Inc. in Leeds, England. Personnel records from DePuy International, Inc. show Mr. Turquier's residence address as Frederic Turquier, 10 Crossways, Badger Hill, York, YO10 5JQ.
4. On June 9, 2003, I sent a copy of the above patent application, an Assignment of the patent application, and a Declaration and Power of Attorney to Frederic Turquier at the following address: Frederic Turquier, 10 Crossways, Badger Hill, York, YO10 5JQ. Mr. Turquier did not return any signed Assignment or Declaration and Power of Attorney to me.
5. In June, 2003, I also attempted to contact Mr. Turquier by telephone at his then-employer, Smith & Nephew. On June 25, 2003, Mr. Turquier returned my telephone call. Mr. Turquier indicated that he would not sign the documents that had been sent to him.
6. On October 17, 2003, I again wrote to Mr. Turquier at the following address: Frederic Turquier, 10 Crossways, Badger Hill, York, YO10 5JQ. With this letter, I again provided Mr. Turquier with a copy of the above patent application, an Assignment and a Declaration and a Power of Attorney. To date, I have not received any response to this letter.
7. In November, 2003, I again attempted to contact Mr. Turquier by telephone at Smith & Nephew. I was told that Mr. Turquier no longer was employed there.

8. It is my understanding that the filing dates of the above-identified U.S. Provisional Patent Application and U.S Patent Application are necessary to preserve the rights of DePuy Products, Inc. in this patent application. A "surgical technique" describing the invention was made available to the public in Australia prior to July, 2003.

Date: 16th Jan 04


Simon Wilson



Frederic Turquier
10 Crossways
Badger Hill
York
YO10 5JQ

17th October 2003

Dear Frederic,

RE: Kit, guide & method for locating distal femur resection plane

Further to our telephone conversation on 25th June 2003, please see the enclosed US patent application specification and slightly amended assignment/power of attorney documents for the above non-provisional application.

I have spoken to Stephen Manich (US Patent Attorney – DePuy, Warsaw) about your proposal to remove your name from the application altogether, however this is not possible under US law. Minutes of meetings and correspondence clearly show you contributed to the invention being claimed and such there is an obligation to recognize you as an inventor.

I would be extremely grateful, following your review of the specification, if you could sign both the assignment and power of attorney forms and return them in the envelope provided.

Please feel free to contact me if you wish to discuss this matter further. My direct number is 0113 387 6126 and my mobile number is 07967 390122.

Yours sincerely

Simon Wilson